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Enforcement Confidential  
6/17/88

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue, Suite 1200  
Seattle, Washington 98101

IN THE MATTER OF:

ENVIRONMENTAL PROTECTION AGENCY	)	RCRA Docket No. 1087-12-01-3008(a)
COMPLAINANT,	)	CONSENT AGREEMENT AND FINAL ORDER
v.	)	
MAPCO ALASKA PETROLEUM, INC.	)	
RESPONDENT,	)	
<u>AKD000850701</u>	)	

I. PRELIMINARY STATEMENT

proposed

1. This civil administrative proceeding was initiated by issuance of a Complaint and Compliance Order dated January 27, 1988, pursuant to §3008 of the Resource Conservation and Recovery Act of 1986, as amended, 42 U.S.C. §6928 (hereinafter "RCRA" or "the Act"). Complainant is Region 10 of the United States Environmental Protection Agency (hereinafter "EPA" or "Complainant"). Respondent is MAPCO Alaska Petroleum, Inc. (hereinafter "Respondent" or "MAPI").

2. Pursuant to §3008 of RCRA, EPA is authorized to take enforcement action whenever the EPA Administrator determines that a person <sup>allegedly</sup> has violated or is in violation of any requirement of subchapter III of RCRA regarding hazardous waste management.

IMAGED

— changes made on  
June 17, 1988.  
as a result of June  
16 am conference  
call.

3. An informal settlement conference was held at Complainant's offices in Seattle on February 23, 1988, wherein it was agreed to ~~attempt to~~ resolve this matter through the execution on an Agreed Order, as follows.

## II. FINDINGS OF FACT

1. Respondent operates a facility, the primary function of which is the refining of petroleum products. As a result of this operation, Respondent's facility has generated and ~~continues to generate~~ <sup>likely will</sup> ~~some~~ hazardous waste within the meaning of the Act. Respondent's facility is located on approximately ~~40~~ <sup>240</sup> acres of land leased from the ~~State~~ <sup>S</sup> of Alaska at 1100 H and H Lane, North Pole, Alaska (hereafter "the facility").

2. On or about March 12, 1987, Respondent submitted to EPA a "Notification of Hazardous Waste Activity" (EPA Form 8700-12) for its North Pole, Alaska, facility located at 1100 H and H Lane pursuant to RCRA §3010(a), 42 U.S.C. §6930(a), and thereby received EPA identification number AKD000850701. That notification identified Respondent as the owner and operator of the facility and the facility as a generator of hazardous waste.

3. MAPI'S North Pole Refinery was constructed in 1976 and 1977 by the Energy Company of Alaska (ECA), (later named Earth Resources Company of Alaska and now named MAPCO Petroleum Inc.), a subsidiary of Earth Resources Corporation of Alaska (ERCA). The refinery was acquired by MAPCO Petroleum, Inc. of Tulsa, Oklahoma on February 10, 1981. ~~ERCA~~ <sup>that time</sup> MAPI has operated the facility at North Pole since 1980, and including a period of time prior to and after November 19, 1980.

4. During July 1984 a preliminary assessment (PA) under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §9601)(CERCLA) was conducted at the facility. In August 1986 a Phase I site inspection (SI) under CERCLA was conducted at the MAPI facility. The results of the August 1986 SI (Phase I summary memorandum) indicate there is a potential that hazardous wastes are present on the ground and in the



(Phase I summary memorandum) found no hazardous waste present, it suggested samples from spills be tested for the presence of hazardous wastes which might have been released to the environment.

groundwater. The July 1984 PA and August 1986 SI indicate ~~numerous~~ product spills have occurred at the site, some of which have contaminated the soil and groundwater at the site. *Although the results of the August 1986 SI*

5. The facility has experienced ~~many~~ spills of various petroleum products since 1977. The Alaska Department of Environmental Conservation (DEC) estimates <sup>d</sup> that a total of ~~more than~~ <sup>approximately</sup> 150,000 gallons of petroleum <sup>products</sup> have been released to the environment as a result of these spills. In November 1986 DEC <sup>and MAF</sup> entered into a Compliance Order by Consent, directing that continued oil spill cleanup efforts be <sup>under</sup> taken at the facility. *These cleanup activities are continuing at the present time.*

6. The August 1986 SI ~~indicated that solvents and waste oil generated by the facility were pumped into the Trans Alaska Pipeline System (TAPS). The report indicated the heat exchangers had been cleaned once, and the heat exchanger bundle cleaning~~ <sup>material</sup> ~~sludge (K050) had been disposed of into the~~

facility's sump system. The report also indicated, Tetraethyl lead (Acutely Toxic Hazardous Waste P110) ~~had been generated at the facility and was in OK storage for disposal.~~ *Spill in the containment building*

*waiting shipment to a facility.* In September 1986 Respondent ~~disposed of four to six drums of unidentified acid from the maintenance storage yard into the facility's wastewater lagoon. [The lagoon does not meet the requirements outlined in 40 CFR Section 265 Subpart K for treatment of hazardous waste nor does it qualify as an elementary neutralization unit.]~~ *allegedly*

7. Respondent failed to submit Part A of its permit application as a treatment, storage, and disposal facility prior to November 19, 1980 and failed to achieve interim status. ~~Therefore,~~ <sup>and</sup> Respondent operates and has operated a hazardous waste treatment/storage facility in violation of the permit requirements set forth at 40 CFR Part 270 *et seq.*

*If hazardous waste was generated at the facility prior to 1981,*

1        8. On March 5, 1987, representatives of Complainant inspected  
2 Respondents North Pole facility. During the inspection the following  
3 circumstances and conditions were found to exist.

4        a. Approximately 100 55-gallon drums were observed in the  
5 facilities <sup>Y's</sup> "boneyard". These drums contained unused products such  
6 as corrosion inhibitors (D001), boiler treatment compounds (D001),  
7 and sodium hydroxide (D002). These materials were being stored in  
8 violation of the requirements at 40 CFR §261.6 for recyclable  
9 materials. In addition, this area contained drums of crude oil, oil  
10 spill cleanup materials and some unknowns that had been accumulated,  
11 for recycling or disposal, since the refinery began operation.

12        b. Beginning in late December 1986, containers from the boneyard  
13 were brought into the blending and metering building, where they  
14 were thawed. The facility planned to add boiler treatment  
15 chemicals, corrosives and other water soluble materials to the sump  
16 system and to pump corrosion inhibitors and other <sup>water-</sup>oil-based  
17 materials to <sup>T</sup> tank 112.

18        c. On March 5, 1987, Complainant observed 25 55-gallon drums in  
19 the blending and metering building. One room of the blending and  
20 metering building contained twelve drums and had steam lines set  
21 around several drums and a mixer set into one drum. This room also  
22 contained the pump used to transfer materials to either Tank 192 or  
23 Tank 112. The labels on these drums indicated they contained 50%  
24 hydrogen peroxide solution (D003), sodium hydroxide solution (D002),  
25 methanol (U154), and Nalco Corrosion Inhibitor (D001). According to  
26 Respondent these materials were awaiting characterization as  
27 products, recyclable materials, or wastes. Respondent indicated  
28 that the refinery had emptied into the sump system or pumped to

(used for  
oxygenation  
of the  
lagoon)

(used for  
preliminary  
testing of  
gasohol)



Tanks 112 or 192 only those drums whose contents were identified as compatible with crude oil, could be re-refined, or materials which would mix with wastewater in Tank 192 and be neutralized. The refinery's operation log indicated approximately 180 drums of these materials had been emptied as of March 5, 1987 into the sump system. Respondents indicated the majority of drums emptied into the sump system since December 1986 consisted of ~~old~~ unused drums of corrosion inhibitors (D001), boiler treatment chemicals (D001 or D002), and approximately six drums of sodium hydroxide (D002). After the containers were emptied they were steam cleaned and crushed.

*used for gasoline treatment*

d. Recycling and/or neutralization of sodium hydroxide, ~~hydrogen peroxide, and methanol~~ into the refining process is not consistent with ~~their~~ <sup>its</sup> use as a raw material or commercial product; therefore this activity is not legitimate recycling, ~~but instead constitutes surrogate disposal.~~

*delete  
2 clens*

*delete*

e. Between April 1986 and March 1987 Respondent had disposed of approximately seven drums (350 gallons) of Navy Brand Safety Solvent into the facilities sump system. This product contains greater than 11.2 percent 1,1,1-Trichloroethane and 35.8 percent Methylene Chloride (F001 or F002). Each of these products is a listed hazardous waste at 40 CFR §261.31 due to toxicity.

*which is  
no longer  
used at  
the facility*

f. The MAPI refinery generates several types of filter waste including clay from a filter tower. MAPI uses the clay tower to filter kerosene, heating fuel, and JP-4. The clay from this tower is changed once every two or three years, most recently in 1986.

During the course of the March 5, 1987 inspection, ~~used clay filter media~~ <sup>material</sup> was observed on the ground in the boneyard area. *The liner between the filters and the ground was covered with snow.*

CONSENT AGREEMENT AND FINAL ORDER - Page 5 of 15

*Clay filter media*

*The ground was covered with snow and the facility contends there was a liner between the ground & the clay filter*

~~awaiting disposal shipment~~

while MAPI's disposal consultant tried to find a disposal site that would accept the drums.

in a secured area

for less than 270 days

g. On March 5, 1987, Complainant observed 2 unlabeled and undated 55-gallon drums of Tetra Ethyl Lead (Acutely Toxic Hazardous Waste P110) spill cleanup material in storage. Respondent indicated this material had been in storage since the spring of 1986. This material is a hazardous waste but was not labeled as hazardous waste, and not marked with the date of accumulation in accordance with 40 CFR §262.34.

h. Seven unlabeled drums containing sludge from the facility's sumps were in storage. Respondent's analysis indicated these wastes were ignitable (D001) and EP toxic (D010) and had been in storage since October 20, 1986 awaiting shipment to a disposal site.

several of the

i. The Respondent's contingency plan addressed petroleum spills but did not address hazardous waste releases or emergencies, as required by 40 CFR Section §262.34.

at the frequency

j. ~~no~~ container inspections were <sup>not</sup> being conducted in the boneyard as required by 40 CFR §262.34.

k. Respondent did not have a written training plan to teach designated facility personnel hazardous waste management procedures, and did not have written records of training received by designated personnel, as required by 40 CFR §262.34.

9. ~~10.~~ At the time of the inspection Respondent <sup>may have</sup> exceeded the small quantity generator limits (accumulation of more than 1,000 kilograms of hazardous waste and more than 1 kilogram of an acutely toxic waste (tetraethyl lead) as described at 40 CFR §261.5, <sup>in which case it would be</sup> and is therefore subject to the applicable requirements of 40 CFR Parts 262 through 266 and Parts 270 and 124.

10. ~~11.~~ On May 15, 1987, the EPA issued an information request pursuant to Section 3007 of RCRA. On June 17 and in July 1987, in response to this request, MAPI provided the following information:

CONSENT AGREEMENT AND FINAL ORDER - Page 6 of 15



but not limited to these listed items, ~~existing~~ exiting the laboratory is less than 1% of the total influent (water) into the wastewater lagoon

neutralization agent

miniscule amounts of

a. The facility had disposed of laboratory waste including but not limited to aniline (U012), acetone (F003), and trichloroethylene (F002) into Tank 192 for recycling and/or separation.

b. During the cleanup of drums from the storage area several drums of caustic material were drained into the sump system to act as a

however, the pH level of the pond remained acceptable

The resultant water fraction with a higher pH went to the wastewater

holding pond. The facility did not conduct any monitoring of the neutralization process, as required by 40 CFR Part 265, Subpart Q,

nor does the wastewater lagoon meet the requirements outlined in 40

CFR Part 265, Subpart K for treatment of hazardous waste. The facility no longer uses caustic material.

c. Leaks in the facility's sump system, have resulted in

from

groundwater contamination. The facility identified two pools, as a

primarily from product tanks, but also

result of leaking sumps. The first is in the Crude Unit Process

Area (Sump 901) and the second is in the area of the old truck and

rail loading facilities (Sump 902). Recovery wells in the area of

the sump 901 have yielded 8,977 gallons of oil and wells in the sump 902

area have yielded 28,815 gallons of oil as of March 1987. These particles

relining of all sumps was completed in 1986.

sumps were relined in 1986 with steel; During the relining in October

1986, seven drums of sludge were removed from the sumps. This (other than Sumps 901 and 902)

sludge was shipped to a hazardous waste disposal facility in

March 1987 even though analyzing the sludge showed it

was not hazardous waste.

11. 12. Respondent failed to comply with the conditions set forth at 40 CFR

§262.34 for operating without interim status or a permit including: failing to label and date containers of hazardous waste; failing to conduct personnel training, as described at 40 CFR §265.16; and failure to develop and implement a hazardous waste contingency plan, as described at 40 CFR Part 265,

Subpart D. In addition, Respondent allowed hazardous waste to be leaked or spilled from the sump system to the ground. Therefore, Respondent is subject

CONSENT AGREEMENT AND FINAL ORDER - Page 7 of 15

within 270 days of its accumulation. Analysis of this sludge showed that it did not contain any specific hazardous waste listed in EPA's hazardous waste regulation.

1 to the applicable requirements of 40 CFR Parts 265 and 270 as a facility that  
2 stores and/or disposes of hazardous waste.

3 ~~12. 13~~ Respondent has violated provisions of §3005 and §3010 of the Act and  
4 regulations adopted pursuant to the Act in 40 CFR Part 270, regarding the  
5 permitting of hazardous waste storage and disposal facilities. Respondent has  
6 operated a hazardous waste storage facility and/or A small amount of has disposed of hazardous  
7 waste at the facility without the submission of a Part A permit application,  
8 without interim status, without obtaining a hazardous waste permit, and  
9 without proper notification.

10 ~~13. 14~~ On March 5, 1987, Respondent had violated the following regulations  
11 adopted pursuant to §3002 and §3004 of the Act, by improperly handling,  
12 storing, and disposing of hazardous waste in the following manner:

13 a. Respondent violated 40 CFR §265.14, by not controlling the  
14 possibility for the unauthorized entry into hazardous waste storage  
15 and disposal areas by not placing a warning sign with the legend  
16 "Danger--Unauthorized Personnel Keep Out" at the entrance to such  
17 areas.

18 b. Respondent ~~had~~ not conducted inspections of hazardous waste  
19 storage and disposal areas, in accordance with ~~as required by~~ 40 CFR §§265.15 and  
20 265.174.

21 c. Respondent did not have a written training plan to teach  
22 designated facility personnel hazardous waste management procedures,  
23 and did not have written records of training received by designated  
24 personnel, as required by 40 CFR §265.16.

25 d. Respondent did not maintain sufficient ~~adequate~~ aisle space to allow the  
26 unobstructed movement of personnel, fire protection equipment, spill  
27 control equipment, and decontamination equipment between drums of  
28 hazardous waste, as required by 40 CFR §265.35.



- 1 e. Respondent did not manage containers of hazardous waste to  
2 prevent spills or leaks, as required by 40 CFR §265.171.
- 3 f. Respondent had hazardous waste in containers that were not  
4 always closed during storage, in violation of 40 CFR §265.173.
- 5 g. Respondent operated a hazardous waste storage and/or disposal  
6 facility without having a written closure plan for the facility, as  
7 required by 40 CFR §265.112.
- 8 h. Respondent operated a hazardous waste storage and/or disposal  
9 facility without estimating closure cost, without providing  
10 financial assurance for closure of the facility, and without  
11 demonstrating financial responsibility for bodily injury and  
12 property damage to third parties caused by sudden accidental  
13 occurrences arising from operation of the facility, as required by  
14 40 CFR §§265.142, 265.143, and 265.147.
- 15 i. Respondent operated a hazardous waste storage and/or disposal  
16 facility without a written waste analysis plan, as required by 40  
17 CFR §265.13.
- 18 j. Respondent ~~had~~ not maintained operating records which indicated  
19 the quantity and location of hazardous waste at the facility, as  
20 required by 40 CFR §265.73.
- 21 k. Respondent ~~does~~ <sup>did</sup> not have a hazardous waste contingency plan  
22 that describes emergency response to fires, explosions and releases  
23 involving hazardous waste, as required by 40 CFR §§265.51 and 265.52.
- 24 ~~l. Respondent has either not attempted to make arrangements with~~  
25 ~~local authorities, or has not recorded attempts to make such~~  
26 ~~arrangements, as required by 40 CFR §265.37.~~
- 27 l, ~~m~~ Respondent ~~has~~ <sup>d</sup> not placed "no smoking" signs in the vicinity of  
28 releases and storage of ignitable hazardous waste, as required by

1 40 CFR §265.17. Respondent has not operated the facility to  
2 ~~minimize the possibility of fire, explosion or releases of hazardous~~  
3 ~~waste, as required by 40 CFR §265.31~~

4 (m) Respondent had not determined if <sup>certain</sup> the solid waste in storage or  
5 generated on-site is a hazardous waste, as required by 40 CFR  
6 §262.11.

7 15. <sup>Disposal</sup> ~~Releases~~ of substances regulated under RCRA have occurred at the  
8 facility. Trichloroethane and Methylene Chloride are listed hazardous wastes  
9 due to their toxicity. Other substances <sup>disposed of</sup> ~~released~~ are ignitable, reactive,  
10 corrosive or exhibit the characteristic of EP toxicity. ~~The release of these~~  
11 ~~substances constitutes a health and/or environmental hazard.~~

### 12 13 III. CONCLUSIONS OF LAW

14 Based upon the foregoing Findings of Fact and the administrative record,  
15 it is hereby determined that the Respondent has violated the Act [42 U.S.C.  
16 §6901, et seq.], and regulations promulgated thereunder.

### 17 18 IV. CIVIL PENALTY

19 In view of the violations noted in the FINDINGS OF FACT above, Complainant  
20 hereby assesses and Respondent agrees to pay a CIVIL PENALTY of Eighty  
21 Thousand Dollars (\$80,000). In the event that voluntary payment of the civil  
22 penalty assessed in this Order is not timely paid, this order shall be  
23 considered enforceable and binding in any collection proceeding.

### 24 25 V. FINAL ORDER

26 Based on the foregoing, and pursuant to Section 3008 of the Act, it is  
27 hereby ordered that the Respondent take the following corrective actions  
28 within the time periods specified.

CONSENT AGREEMENT AND FINAL ORDER - Page 10 of 15



If not already submitted,

1. Respondent shall, immediately upon receipt of this Order, institute procedures to insure that all hazardous wastes generated at the facility are managed in accordance with the requirements of 40 CFR Part 262. Within 30 days of the effective date of the Order, Respondent shall submit a report to EPA describing those procedures and methods followed to assure continued compliance with 40 CFR Part 262.

If not already submitted,  
2. Respondent shall, within 60 days of the effective date of this Order, for the waste storage area, T tank 192, applicable facility sums, and the surface impoundment accomplish the following:

- a. develop and implement a waste analysis plan, as required by 40 CFR §265.13;
- b. develop and implement inspection procedures and recordkeeping, as required by 40 CFR §265.15;
- c. develop and maintain operating records as required by 40 CFR §265.73;
- ~~d. demonstrate the facility's compliance with the applicable financial requirements of 40 CFR §§265.142 and 265.143.~~

3. Respondent shall, within 60 days of the effective date of this Order, submit to EPA a copy of the facility's waste analysis plan, ~~financial~~ OK assurance documentation, and a report describing procedures and methods followed to assure compliance with 40 CFR §§265.15 and 265.73.

If not already submitted,  
4. Within forty five (45) days of the effective date of this Order, respondent shall submit to EPA for review, modification, and approval a plan and schedule for completing pre-closure investigations and obtaining "clean" closure plans. The clean closure plans shall address the applicable requirements of 40 CFR §§265.110 through 265.115; ~~for the hazardous waste drum storage area, tank 192, the wastewater surface impoundment, and facility sums between the blending and metering building and tank 192.~~ The clean closure plans shall also address for the surface impoundment

; provided, that for Sump No. 901, "clean closure" does not have to occur until

such time as the drum hoist of which the sump is a part is dismantled. See back

for the hazardous waste drum storage area and sumps nos. 901, 905, 109b and 05-7

for those facilities set forth in this paragraph

Page

the ground-water monitoring and corrective action standards found in Subpart  
F of 40 CFR Part 264 as outlined in the December 1, 1987 Federal Register. The  
plans shall address the sampling and analysis of soil, water, and groundwater  
as necessary to determine the extent of any contamination at each of the above  
units and to confirm that removal, cleanup, and/or decontamination has  
occurred if required. The plans shall contain provisions for appropriate  
quality assurance (QA) and quality control (QC) in accordance with EPA  
guidelines. The plans shall be implemented in accordance with EPA approved,  
or modified and approved, terms and schedules.

5.4 All submittals to Complainant shall be submitted in duplicate, and shall  
be addressed to Mr. Charles W. Rice, Chief, RCRA Compliance Section, HW-112,  
Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101,  
and to Mr. Steven A. Torok, Air/Waste Team Leader, Environmental Protection  
Agency, 3200 Hospital Drive, Suite 101, Juneau, Alaska 99801.

#### VI. CONSENT

1. In connection with this matter, the Respondent consents to the following:

- a. To pay the assessed civil penalty of Eighty thousand dollars  
(\$80,000) on the terms described below.
- b. To comply in full with the Final Order issued pursuant to  
Section 3008 of the Act.

2. The consent of both Respondent and Complainant to settle this matter on  
the terms and conditions set forth in the penalty assessment and order  
provisions of this document (hereinafter collectively referred to as the  
"Order") is based on the following:

*Nothing contained in this Order shall be considered or construed as an admission by Respondent of a violation of any law, regulation, or ordinance, or as an admission of any fact or conclusion of law, or as a waiver of any defense. Acknowledgments made by Respondent are for the sole purpose of establishing a binding enforceable Order.*

~~a. Respondent neither admits nor denies any factual or legal allegations contained in this Order. Nevertheless, in full and~~

CONSENT AGREEMENT AND FINAL ORDER - Page 12 of 15



1 Order, consents to the assessment of the civil penalty set forth  
2 herein, and explicitly waives its right to request a hearing  
3 regarding any provision of this Order.

4 b. The provision of this Order imposing duties (other than the  
5 payment of penalties) upon Respondent shall apply to and be binding  
6 upon not only Respondent, but also its officers, agents, servants  
7 and employees, and upon all those in active concert or participation  
8 with them who receive actual notice of this Order by personal  
9 service or otherwise.

10 c. It is the intention of this Order to bring Respondent and all  
11 operations at the facility into compliance with the applicable  
12 provisions of RCRA and applicable RCRA regulations. It is not  
13 Complainant's intention by this Order to impose standards or  
14 conditions more stringent than those specified in the aforementioned  
15 provisions except to the extent that it may be necessary to remedy  
16 existing alleged violations at the facility.

17 d. It is Respondent's <sup>29</sup> intent to complete the required <sup>clean</sup> closure  
18 activities and subsequently operate the facility in accordance with  
19 the generator standards.

20 e. This Order shall in no way relieve the Respondent of its  
21 obligation to comply with any other local, state or federal law in  
22 any way related to the substance of this Order.

23 *on a  
requirement  
for Respondent  
to obtain  
a permit,*

24 f. This Order is not and shall not be interpreted to be a permit  
25 for treatment, storage or disposal of hazardous waste under Section  
26 3005 or RCRA (or under the terms of a state program operating in  
27 lieu of the federal program under Section 3006 of RCRA), nor shall  
28 this Order in any way affect the Respondent's obligation, if any, to  
secure such a permit, nor shall this Order be interpreted in any way  
to affect or waive any of

1 the conditions or requirements that may be validly imposed as  
2 conditions for issuance of such permit nor of Respondent's right to  
3 appeal any conditions of such permit.

4 g. This Order is being entered into between Complainant and  
5 Respondent in full settlement of all civil penalties for the alleged  
6 violations identified herein. Nothing in this Order shall restrict  
7 the right of Complainant to initiate further enforcement action for  
8 penalties or otherwise only in the event additional facts are  
9 uncovered which are <sup>reasonably</sup> unknown to Complainant at the time this Order is  
10 entered and which justify such action.

11 h. Notwithstanding compliance with the terms of this Order,  
12 Respondent is not released from liability, if any, for abatement of  
13 any imminent and substantial endangerment to the public health,  
14 welfare or the environment posed by this facility.

15 i. Within 30 days of the <sup>effective</sup> date hereof, Respondent shall pay by  
16 certified check or money order, a civil penalty in the amount of  
17 \$80,000 in full and complete settlement of all violations alleged  
18 herein. Such check shall be payable to the Treasurer, United States  
19 of America, and shall be remitted to: Environmental Protection  
20 Agency, Region 10, P.O. Box 360903M, Pittsburgh, Pennsylvania 15251,  
21 with a copy to Regional Hearing Clerk, Region 10 Environmental  
22 Protection Agency, 1200 Sixth Avenue, SO-125, Seattle, Washington  
23 98101

24 j. Complainant shall expeditiously review all plans and proposals  
25 submitted pursuant hereto and shall not unreasonably withhold its  
26 approval.

27 k. The terms of the Order may be modified by written mutual  
28 agreement of the parties <sup>hereto</sup>.



... , which determination will be in writing and will not be unreasonably withheld,

1. This Consent Order shall remain in effect until EPA has determined that MAPI has satisfactorily performed the terms of this Consent Order, or until a complete RCRA final permit for the facility is issued and effective, whichever occurs first.

3. By the following signature, the Respondent hereby consents to the entry of the Order on the terms and conditions herein stated:

Dated \_\_\_\_\_ day of \_\_\_\_\_ 1988.

\_\_\_\_\_  
For Respondent

Randolph L. Jones, Jr.  
Secretary and General Counsel - MAPI

VI. ENTRY OF FINAL CONSENT ORDER

It is so Ordered, as set forth above. This Order, including each and every portion hereof, shall become effective immediately.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 1988.

\_\_\_\_\_  
Charles E. Findley, Director  
Hazardous Waste Division  
Region 10  
US Environmental Protection Agency

DRAFT

CONFIDENTIAL

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue, Suite 1200  
Seattle, Washington 98101

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v.	)	
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RESPONDENT,	)	
AKD000850701	)	

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2. Pursuant to §3008 of RCRA, EPA is authorized to take enforcement action whenever the EPA Administrator determines that a person <sup>allegedly</sup> has violated or is in violation of any requirement of subchapter III of RCRA regarding hazardous waste management.



clean closure plans for Tank 192 and the old surface impoundment shall also address the applicable requirements of 40 CFR §§ 265.110 through 265.115; provided, however, that if the results of the analyses of samples of the sludge in Tank 192 or the groundwater and soil beneath the subject surface impoundment do not contain hazardous wastes listed in EPA's hazardous waste regulations in quantities above specified toxic levels, they shall be deemed to have obtained clean closure.

3. An informal settlement conference was held at Complainant's offices in Seattle on February 23, 1988, wherein it was agreed to ~~attempt to resolve~~ this matter through the execution on an Agreed Order, *as follows.*

## II. FINDINGS OF FACT

1. Respondent operates a facility, the primary function of which is the refining of petroleum products. As a result of this operation, Respondent's facility has generated and ~~continues to generate~~ <sup>likely will</sup> ~~some~~ hazardous waste within the meaning of the Act. Respondent's facility is located on approximately <sup>240</sup> ~~140~~ acres of land leased from the <sup>S</sup> State of Alaska at 1100 H and H Lane, North Pole, Alaska (hereafter "the facility").

2. On or about March 12, 1987, Respondent submitted to EPA a "Notification of Hazardous Waste Activity" (EPA Form 8700-12) for its North Pole, Alaska, facility located at 1100 H and H Lane pursuant to RCRA §3010(a), 42 U.S.C. §6930(a), and thereby received EPA identification number AKD000850701. That notification identified Respondent as the owner and operator of the facility and the facility as a generator of hazardous waste.

3. MAPI'S North Pole Refinery was constructed in 1976 and 1977 by the Energy Company of Alaska (ECA), <sup>(later named Earth Resources Company of Alaska)</sup> a subsidiary of Earth Resources Corporation of Alaska (ERCA). <sup>Company (ERC) (now named MAPCO Petroleum Inc.)</sup> The refinery was acquired by MAPCO Petroleum Inc. of Tulsa, Oklahoma <sup>on February 10, 1981. ERC</sup> ~~in 1980. MAPI has operated the facility at North Pole since 1980,~~ <sup>that time.</sup> and including a period of time prior to and after November 19, 1980.

4. During July 1984 a preliminary assessment (PA) under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §9601) (CERCLA) was conducted at the facility. In August 1986 a Phase I site inspection (SI) under CERCLA was conducted at the MAPI facility. ~~The results of the August 1986 SI (Phase I summary memorandum) indicate there is a potential that hazardous wastes are present on the ground and in the~~

CONSENT AGREEMENT AND FINAL ORDER - Page 2 of 15



(Phase I summary memorandum) found ~~no~~ hazardous waste present, it suggested samples from spills be tested for the presence of hazardous wastes which might have been released to the environment.

groundwater. The July 1984 PA and August 1986 SI indicate ~~numerous~~ <sup>OK</sup> product spills have occurred at the site, some of which have contaminated the soil and groundwater at the site. ~~Although the results of the August 1986 SI,~~

5. The facility has experienced ~~many~~ <sup>OK</sup> spills of various petroleum products since 1977. The Alaska Department of Environmental Conservation (DEC) estimates <sup>d</sup> that a total of ~~more than~~ <sup>approximately</sup> 150,000 gallons of petroleum <sup>products</sup> have been released to the environment as a result of these spills. In November 1986 DEC <sup>and MAPD</sup> entered into a Compliance Order by Consent, directing that continued oil spill cleanup efforts be <sup>under</sup> taken at the facility. ~~These cleanup activities are continuing at the present time.~~

6. The August 1986 SI indicated that solvents and waste oil generated by the facility were pumped into the Trans Alaska Pipeline System (TAPS). The report indicated the heat exchangers had been cleaned ~~once~~ <sup>[in 1975-76]</sup> and the heat <sup>material</sup> exchanger bundle cleaning ~~suds~~ (K050) had been disposed of into the facility's sump system. The report also indicated Tetraethyl lead (Acutely Toxic Hazardous Waste P110) ~~had been generated at the facility and was in~~ <sup>OK</sup> storage ~~for disposal~~ <sup>Spill in the containment building</sup> ~~awaiting shipment to a~~ <sup>facility.</sup>

~~In September 1986 Respondent disposed of four to six drums of unidentified acid from the maintenance storage yard into the facility's wastewater lagoon. The lagoon does not meet the requirements outlined in 40 CFR Section 265 Subpart K for treatment of hazardous waste nor does it qualify as an elementary neutralization unit.~~

7. Respondent failed to submit Part A of its permit application as a treatment, storage, and disposal facility prior to November 19, 1980 and failed to achieve interim status. ~~Therefore,~~ <sup>and</sup> Respondent operates and has operated a hazardous waste treatment/storage facility in violation of the permit requirements set forth at 40 CFR Part 270 ~~et seq.~~

Is there a (?) about this?  
IF hazardous waste was generated at the facility prior to 1981,

1        8. On March 5, 1987, representatives of Complainant inspected  
2 Respondents North Pole facility. During the inspection the following  
3 circumstances and conditions were found to exist.

4        a. Approximately 100 55-gallon drums were observed in the  
5 facilities<sup>ys</sup> "boneyard". These drums contained unused products such  
6 as corrosion inhibitors (D001), boiler treatment compounds (D001),  
7 and sodium hydroxide (D002). These materials were being stored in  
8 violation of the requirements at 40 CFR §261.6 for recyclable  
9 materials. In addition, this area contained drums of crude oil, oil  
10 spill cleanup materials and some unknowns that had been accumulated,  
11 for recycling or disposal, since the refinery began operation.

12        b. Beginning in late December 1986, containers from the boneyard  
13 were brought into the blending and metering building, where they  
14 were thawed. The facility planned to add boiler treatment  
15 chemicals, corrosives and other water soluble materials to the sump  
16 system and to pump corrosion inhibitors and other ~~oil~~<sup>water</sup>-based  
17 materials to tank 112.        ? which

18        c. On March 5, 1987, Complainant observed 25 55-gallon drums in  
19 the blending and metering building. One room of the blending and  
20 metering building contained twelve drums and had steam lines set  
21 around several drums and a mixer set into one drum. This room also  
22 contained the pump used to transfer materials to either Tank 192 or  
23 Tank 112. The labels on these drums indicated they contained 50%  
24 hydrogen peroxide solution (D003), sodium hydroxide solution (D002),  
25 methanol (U154) and Nalco Corrosion Inhibitor (D001). According to  
26 Respondent these materials were awaiting characterization as  
27 products, recyclable materials, or wastes. Respondent indicated  
28 that the refinery had emptied into the sump system or pumped to

(used for  
oxyseparation  
of the  
lagoon)

(used for  
preliminary  
testing of  
gasohol)



Tanks 112 or 192 only those drums whose contents were identified as compatible with crude oil, could be re-refined, or materials which would mix with wastewater in Tank 192 and be neutralized. The refinery's operation log indicated approximately 180 drums of these materials had been emptied as of March 5, 1987 into the sump system. Respondents indicated the majority of drums emptied into the sump system since December 1986 consisted of ~~old~~ unused drums of corrosion inhibitors (D001), boiler treatment chemicals (D001 or D002), and approximately six drums of sodium hydroxide (D002). After the containers were emptied they were steam cleaned and crushed.

d. Recycling and/or neutralization of sodium hydroxide, ~~hydrogen peroxide, and methanol~~ into the refining process is not consistent with ~~their~~ <sup>its</sup> use as a raw material or commercial product; therefore this activity is not legitimate recycling, ~~but instead constitutes surrogate disposal.~~

e. Between April 1986 and March 1987 Respondent had disposed of approximately seven drums (350 gallons) of Navy Brand Safety Solvent into the facilities sump system. This product contains greater than 11.2 percent 1,1,1-Trichloroethane and 35.8 percent Methylene Chloride (F001 or F002). Each of these products is a listed hazardous waste at 40 CFR §261.31 due to toxicity.

f. The MAPI refinery generates several types of filter waste including clay from a filter tower. MAPI uses the clay tower to filter kerosene, heating fuel, and JP-4. The clay from this tower is changed once every two or three years, most recently in 1986.

During the course of the March 5, 1987 inspection, ~~used clay filter media~~ material was observed on the ground in the boneyard area. The ~~liner~~ between the filters and the ground was covered with snow.

ok to delete

? why changed

used for gasoline treatment

fine 7  
which is no longer used at the facility

confirms is was a waste

The co. contends

clay filter media

was there one?

awaiting disposal shipment

while MAPI's disposal consultant tried to find a disposal site that would accept the drum

g. On March 5, 1987, Complainant observed 2 unlabeled and undated 55-gallon drums of Tetra Ethyl Lead (Acutely Toxic Hazardous Waste P110) spill cleanup material in storage. Respondent indicated this material had been in storage since the spring of 1986. This material is a hazardous waste but was not labeled as hazardous waste, and not marked with the date of accumulation in accordance with 40 CFR §262.34.

in a secured area

for less than 270 days

cumulative limit exceeded?

h. Seven unlabeled drums containing sludge from the facility's sumps were in storage. Respondent's analysis indicated these wastes were ignitable (D001) and EP toxic (D010) and had been in storage since October 20, 1986 awaiting shipment to a disposal site.

several of the

i. The Respondent's contingency plan addressed petroleum spills but did not address hazardous waste releases or emergencies, as required by 40 CFR Section 262.34.

at the frequency

j. ~~no~~ container inspections were <sup>not</sup> being conducted in the boneyard as required by 40 CFR §262.34.

k. Respondent did not have a written training plan to teach designated facility personnel hazardous waste management procedures, and did not have written records of training received by designated personnel, as required by 40 CFR §262.34.

9. ~~To~~. At the time of the inspection Respondent may have exceeded the small quantity generator limits (accumulation of more than 1,000 kilograms of hazardous waste and more than 1 kilogram of an acutely toxic waste (tetraethyl lead) as described at 40 CFR §261.5, in which case it would be and is therefore subject to the applicable requirements of 40 CFR Parts 262 through 266 and Parts 270 and 124.

10. ~~At~~. On May 15, 1987, the EPA issued an information request pursuant to Section 3007 of RCRA. On June 17 and in July 1987, in response to this request, MAPI provided the following information:

CONSENT AGREEMENT AND FINAL ORDER - Page 6 of 15



but not limited to these listed items, entering  
entering the laboratory is less than 1%  
of the total influent (water) into  
the wastewater lagoon

neutralization a

miniscule amounts of

however, ~~although~~ the  
pH level  
of the pond  
remained  
acceptable

primarily  
from product  
tanks, but  
also

relining of  
all sumps  
was completed  
in 1986.

a. The facility had disposed of laboratory waste including but not  
limited to aniline (U012), acetone (F003), and trichloroethylene  
(F002) into Tank 192 for recycling and/or separation.

b. During the cleanup of drums from the storage area several drums  
of caustic material were drained into the sump system to act as a  
The resultant water fraction with a <sup>higher</sup> pH went to the wastewater  
holding pond. The facility did not conduct any monitoring of the  
neutralization process, as required by 40 CFR Part 265, Subpart Q,  
nor does the wastewater lagoon meet the requirements outlined in 40  
CFR Part 265, Subpart K for treatment of hazardous waste. The facility  
~~is no longer uses caustic material.~~

c. Leaks in the facility's sump system, have resulted in  
groundwater contamination. The facility identified two <sup>product</sup> pools, as a  
~~result of leaking sumps.~~ The first is in the Crude Unit Process  
Area <sup>including</sup> (Sump 901) and the second is in the area of the old truck and  
rail loading facilities <sup>including</sup> (Sump 902). Recovery wells in the area of  
~~the~~ sump 901 have yielded 8,977 gallons of oil and wells in the sump 902  
area have yielded 28,815 gallons of oil as of March 1987. These ~~particular~~  
sumps were <sup>relined</sup> ~~lined~~ in <sup>1983</sup> ~~1986~~ with steel. During the relining in October  
1986, seven drums of sludge were removed from ~~the~~ <sup>various</sup> sumps. This <sup>(other than</sup>  
sludge was shipped to a hazardous waste disposal facility in <sup>Sumps 901</sup>  
March 1987 ~~even though analysis of the sludge showed it~~  
~~was not hazardous waste.~~

11. 12. Respondent failed to comply with the conditions set forth at 40 CFR  
§262.34 for operating without interim status or a permit including: failing  
to label and date containers of hazardous waste; failing to conduct personnel  
training, as described at 40 CFR §265.16; and failure to develop and implement  
a hazardous waste contingency plan, as described at 40 CFR Part 265,

Subpart D. ~~In addition, Respondent allowed hazardous waste to be leaked or~~  
~~spilled from the sump system to the ground.~~ Therefore, <sup>certain of facilities</sup> Respondent is subject

CONSENT AGREEMENT AND FINAL ORDER - Page 7 of 15

within 270 days of its accumulation. Analysis of this sludge  
showed that it did not contain any specific hazardous waste  
listed in EPA's hazardous waste regulations.

1 to the applicable requirements of 40 CFR Parts 265 and 270 as a facility that  
2 stores and/or disposes of hazardous waste.

3 12. ~~13~~ Respondent has violated provisions of §3005 and §3010 of the Act and  
4 regulations adopted pursuant to the Act in 40 CFR Part 270, regarding the  
5 permitting of hazardous waste storage and disposal facilities. Respondent has  
6 operated a hazardous waste storage facility and/or A small amount of has disposed of hazardous  
7 waste at the facility without the submission of a Part A permit application,  
8 without interim status, without obtaining a hazardous waste permit, and  
9 without proper notification.

10 13. ~~14~~ On March 5, 1987, Respondent had violated the following regulations  
11 adopted pursuant to §3002 and §3004 of the Act, by improperly handling,  
12 storing, and disposing of hazardous waste in the following manner:

- 13 a. Respondent violated 40 CFR §265.14, by not controlling the  
14 possibility for the unauthorized entry into hazardous waste storage  
15 and disposal areas by not placing a warning sign with the legend  
16 "Danger--Unauthorized Personnel Keep Out" at the entrance to such  
17 areas.
- 18 b. Respondent had not conducted inspections of hazardous waste  
19 storage and disposal areas in accordance with ~~as required by~~ 40 CFR §§265.15 and  
20 265.174.
- 21 c. Respondent did not have a written training plan to teach  
22 designated facility personnel hazardous waste management procedures,  
23 and did not have written records of training received by designated  
24 personnel, as required by 40 CFR §265.16..
- 25 d. Respondent did not maintain sufficient ~~adequate~~ aisle space to allow the  
26 unobstructed movement of personnel, fire protection equipment, spill  
27 control equipment, and decontamination equipment between drums of  
28 hazardous waste, as required by 40 CFR §265.35.



- 1 e. Respondent did not manage containers of hazardous waste to  
2 prevent spills or leaks, as required by 40 CFR §265.171.
- 3 f. Respondent had hazardous waste in containers that were not  
4 always closed during storage, in violation of 40 CFR §265.173.
- 5 g. Respondent operated a hazardous waste storage and/or disposal  
6 facility without having a written closure plan for the facility, as  
7 required by 40 CFR §265.112.
- 8 h. Respondent operated a hazardous waste storage and/or disposal  
9 facility without estimating closure cost, without providing  
10 financial assurance for closure of the facility, and without  
11 demonstrating financial responsibility for bodily injury and  
12 property damage to third parties caused by sudden accidental  
13 occurrences arising from operation of the facility, as required by  
14 40 CFR §§265.142, 265.143, and 265.147.
- 15 i. Respondent operated a hazardous waste storage and/or disposal  
16 facility without a written waste analysis plan, as required by 40  
17 CFR §265.13.
- 18 j. Respondent ~~had~~ not maintained operating records which indicated  
19 the quantity and location of hazardous waste at the facility, as  
20 required by 40 CFR §265.73.
- 21 k. Respondent ~~does~~ <sup>did</sup> not have a hazardous waste contingency plan  
22 that describes emergency response to fires, explosions and releases  
23 involving hazardous waste, as required by 40 CFR §§265.51 and 265.52.
- 24 ~~l. Respondent has either not attempted to make arrangements with~~  
25 ~~local authorities, or has not recorded attempts to make such~~  
26 ~~arrangements, as required by 40 CFR §265.37.~~
- 27 l. ~~m~~ Respondent ~~has~~ <sup>did</sup> not placed "no smoking" signs in the vicinity of  
28 releases and storage of ignitable hazardous waste, as required by

1 40 CFR §265.17. Respondent has not operated the facility to  
2 minimize the possibility of fire, explosion or releases of hazardous  
3 waste, as required by 40 CFR §265.31

4 (m) Respondent had not determined if <sup>certain</sup> the solid waste in storage or  
5 generated on-site is a hazardous waste, as required by 40 CFR  
6 §262.11.

7 15. <sup>Disposal</sup> Releases of substances regulated under RCRA have occurred at the  
8 facility. Trichloroethane and Methylene Chloride are listed hazardous wastes  
9 due to their toxicity. Other substances <sup>disposed of</sup> released are ignitable, reactive,  
10 corrosive or exhibit the characteristic of EP toxicity. ~~The release of these~~  
11 ~~substances constitutes a health and/or environmental hazard.~~

### 12 13 III. CONCLUSIONS OF LAW

14 Based upon the foregoing Findings of Fact and the administrative record,  
15 it is hereby determined that the Respondent has violated the Act [42 U.S.C.  
16 §6901, et seq.], and regulations promulgated thereunder.

### 17 18 IV. CIVIL PENALTY

19 In view of the violations noted in the FINDINGS OF FACT above, Complainant  
20 hereby assesses and Respondent agrees to pay a CIVIL PENALTY of Eighty  
21 Thousand Dollars (\$80,000). In the event that ~~voluntary~~ payment of the civil  
22 penalty assessed in this Order is not timely paid, this <sup>0</sup> order shall be  
23 considered enforceable and binding in any collection proceeding.

### 24 25 V. FINAL ORDER

26 Based on the foregoing, and pursuant to Section 3008 of the Act, it is  
27 hereby ordered that the Respondent take the following corrective actions  
28 within the time periods specified.

CONSENT AGREEMENT AND FINAL ORDER - Page 10 of 15



If not already submitted,

1 Respondent shall, immediately upon receipt of this Order, institute  
2 procedures to insure that all hazardous wastes generated at the facility are  
3 managed in accordance with the requirements of 40 CFR Part 262. Within 30  
4 days of the effective date of the Order, Respondent shall submit a report to  
5 EPA describing those procedures and methods followed to assure continued  
6 compliance with 40 CFR Part 262.

If not already submitted,

7 2. Respondent shall, within 60 days of the effective date of this  
8 Order, for the waste storage area, tank 192, applicable facility sums, and  
9 the surface impoundment accomplish the following:

10 a. develop and implement a waste analysis plan, as required by 40  
11 CFR §265.13;

12 b. develop and implement inspection procedures and recordkeeping,  
13 as required by 40 CFR §265.15;

14 c. develop and maintain operating records as required by 40 CFR  
15 §265.73;

16 ~~d. demonstrate the facility's compliance with the applicable~~  
17 ~~financial requirements of 40 CFR §§265.142 and 265.143.~~

18 3. Respondent shall, within 60 days of the effective date of this Order,  
19 submit to EPA a copy of the facility's waste analysis plan, financial OK  
20 assurance documentation, and a report describing procedures and methods  
21 followed to assure compliance with 40 CFR §§265.15 and 265.73.

If not already submitted,

22 4. Within forty five (45) days of the effective date of this Order,  
23 Respondent shall submit to EPA for review, modification, and approval a plan  
24 and schedule for completing pre-closure investigations and submitting "clean" closure

25 plans. The closure plans shall address the applicable requirements of 40 CFR  
26 §§265.110 through 265.115; for the hazardous waste drum storage area, tank 192,  
27 the wastewater surface impoundment, and facility sums between the blending  
28 and metering building and tank 192. The closure plans shall also address for  
the surface impoundment

provided, that for Sum No. 901, "clean closure" does not have to occur until

such time as the drum unit of which the sum is a part is dismantled. The #1 see back

clean closure plans for Tank 192 and the old surface impoundment shall also address the applicable requirements of 40 CFR §§ 265.110 through 265.115; provided, however, that if the results of the analyses of samples of the sludge in Tank 192 or the groundwater and soil beneath the subject surface impoundment do not contain hazardous wastes listed in EPA's hazardous waste regulations in quantities above specified toxic levels, they shall be deemed to have obtained clean closure.

No



1 the ground<sup>g</sup>water monitoring and corrective action standards found in Subpart  
2 Fof 40 CFR Part 264 as outlined in the December 1, 1987 Federal Register. The  
3 plans shall address the sampling and analysis of soil, water, and groundwater  
4 as necessary to determine the extent of any contamination at each of the above  
5 units and to confirm that removal, cleanup, and/or decontamination has  
6 occurred if required. The plans shall contain provisions for appropriate  
7 quality assurance (QA) and quality control (QC) in accordance with EPA  
8 guidelines. The plans shall be implemented in accordance with EPA approved,  
9 or modified and approved, terms and schedules.

10 5.4 All submittals to Complainant shall be submitted in duplicate, and shall  
11 be addressed to Mr. Charles W. Rice, Chief, RCRA Compliance Section, HW-112,  
12 Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101,  
13 and to Mr. Steven A. Torok, Air/Waste Team Leader, Environmental Protection  
14 Agency, 3200 Hospital Drive, Suite 101, Juneau, Alaska 99801.

#### 15 VI. CONSENT

16 1. In connection with this matter, the Respondent consents to the following:

- 17 a. To pay the assessed civil penalty of Eighty Thousand dollars  
18 (\$80,000) on the terms described below.  
19 b. To comply in full with the Final Order issued pursuant to  
20 Section 3008 of the Act.

21 2. The consent of both Respondent and Complainant to settle this matter on  
22 the terms and conditions set forth in the penalty assessment and order  
23 provisions of this document (hereinafter collectively referred to as the  
24 "Order") is based on the following:

25 *Nothing contained*  
26 *in this Order* a. ~~Respondent neither admits nor denies any factual or legal~~  
27 ~~shall be considered or~~ *Nevertheless, in full and*  
28 ~~constituted as~~ *an admission, the*  
*by Respondent* complete settlement of this matter, Respondent agrees to be bound by  
*of a violation of* the terms of this  
*any law, regulation*  
*or ordinance, or as an admission of any fact or conclusion of law, or as*  
*wavering of any defense. Acknowledgments made by Respondent are for*  
CONSENT AGREEMENT AND FINAL ORDER - Page 12 of 15 *the sole purpose of*  
*establishing a binding enforceable*  
*Order.*

1 Order, consents to the assessment of the civil penalty set forth  
2 herein, and explicitly waives its right to request a hearing  
3 regarding any provision of this Order.

4 b. The provision of this Order imposing duties (other than the  
5 payment of penalties) upon Respondent shall apply to and be binding  
6 upon not only Respondent, but also its officers, agents, servants  
7 and employees, and upon all those in active concert or participation  
8 with them who receive actual notice of this Order by personal  
9 service or otherwise.

10 c. It is the intention of this Order to bring Respondent and all  
11 operations at the facility into compliance with the applicable  
12 provisions of RCRA and applicable RCRA regulations. It is not  
13 Complainant's intention by this Order to impose standards or  
14 conditions more stringent than those specified in the aforementioned  
15 provisions except to the extent that it may be necessary to remedy  
16 existing alleged violations at the facility.

17 d. It is Respondent's<sup>29</sup> intent to complete the required<sup>clean</sup> closure  
18 activities and subsequently operate the facility in accordance with  
19 the generator standards.

20 e. This Order shall in no way relieve the Respondent of its  
21 obligation to comply with any other local, state or federal law in  
22 any way related to the substance of this Order.

23 *or a requirement  
for Respondent  
to obtain  
a permit,*

24 f. This Order is not and shall not be interpreted to be a permit  
25 for treatment, storage or disposal of hazardous waste under Section  
26 3005 or RCRA (or under the terms of a state program operating in  
27 lieu of the federal program under Section 3006 of RCRA), nor shall  
28 this Order in any way affect the Respondent's obligation, if any, to  
secure such a permit, nor shall this Order be interpreted in any way  
to affect or waive any of



1 the conditions or requirements that may be validly imposed as  
2 conditions for issuance of such permit nor of Respondent's right to  
3 appeal any conditions of such permit.

4 g. This Order is being entered into between Complainant and  
5 Respondent in full settlement of all civil penalties for the alleged  
6 violations identified herein. Nothing in this Order shall restrict  
7 the right of Complainant to initiate further enforcement action for  
8 penalties or otherwise only in the event additional facts are  
9 uncovered which are <sup>reasonably</sup> unknown to Complainant at the time this Order is  
10 entered and which justify such action.

11 h. Notwithstanding compliance with the terms of this Order,  
12 Respondent is not released from liability, if any, for abatement of  
13 any imminent and substantial endangerment to the public health,  
14 welfare or the environment posed by this facility.

15 i. Within 30 days of the <sup>effective</sup> date hereof, Respondent shall pay by  
16 certified check or money order, a civil penalty in the amount of  
17 \$80,000 in full and complete settlement of all violations alleged  
18 herein. Such check shall be payable to the Treasurer, United States  
19 of America, and shall be remitted to: Environmental Protection  
20 Agency, Region 10, P.O. Box 360903M, Pittsburgh, Pennsylvania 15251,  
21 with a copy to Regional Hearing Clerk, Region 10 Environmental  
22 Protection Agency, 1200 Sixth Avenue, SO-125, Seattle, Washington  
23 98101

24 j. Complainant shall expeditiously review all plans and proposals  
25 submitted pursuant hereto and shall not unreasonably withhold its  
26 approval.

27 k. The terms of the Order may be modified by written mutual  
28 agreement of the parties <sup>hereto</sup>.

OK, which determination will be in writing and will not be unreasonably withheld,

1. This Consent Order shall remain in effect until EPA has determined that MAPI has satisfactorily performed the terms of this Consent Order, or until a complete RCRA final permit for the facility is issued and effective, whichever occurs first.

3. By the following signature, the Respondent hereby consents to the entry of the Order on the terms and conditions herein stated:

Dated \_\_\_\_\_ day of \_\_\_\_\_ 1988.

\_\_\_\_\_  
For Respondent

Randolph L. Jones, Jr.  
Secretary and General Counsel - MAPI

#### VI. ENTRY OF FINAL CONSENT ORDER

It is so Ordered, as set forth above. This Order, including each and every portion hereof, shall become effective immediately.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 1988.

\_\_\_\_\_  
Charles E. Findley, Director  
Hazardous Waste Division  
Region 10  
US Environmental Protection Agency